

Exhibit AA

Filed Under Temporary Seal

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michelle Simha, as
Trustee for the
Next-of-Kin of Noah
Leopold,

Plaintiff,

Civil File No.
24-CV-01097-JRT-DTS

vs.

Mayo Clinic,

Defendant.

DEPOSITION OF NATHAN PRINCE

Volume I, Pages 1 - 69

August 13, 2024

(The following is the deposition of Nathan Prince, taken pursuant to Notice of Taking Deposition, via video, at Mayo Clinic, Legal Department, 100 2nd Street SW, Rochester, Minnesota, commencing at approximately 9:09 a.m., August 13, 2024.)

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<p>1 APPEARANCES:</p> <p>2 On Behalf of the Plaintiff:</p> <p>3 Brandon Thompson</p> <p>4 CIRESI CONLIN LLP</p> <p>5 225 South Sixth Street</p> <p>6 Suite 4600</p> <p>7 Minneapolis, Minnesota 55402</p> <p>8 On Behalf of the Defendant:</p> <p>9 Andrew Brantingham</p> <p>10 DORSEY & WHITNEY LLP</p> <p>11 50 South Sixth Street</p> <p>12 Suite 1500</p> <p>13 Minneapolis, Minnesota 55402</p> <p>14 ALSO PRESENT:</p> <p>15 Ron Huber, Videographer</p> <p>16 Anna C. Messerly, Ciresi Conlin</p> <p>17 Maggie Palmisano, Ciresi Conlin (via Zoom)</p> <p>18 Michelle Simha (via Zoom)</p> <p>19 Norman Leopold (via Zoom)</p> <p>20 Karen Leopold (via Zoom)</p> <p>21 Jenna Shulman (via Zoom)</p> <p>22</p> <p>23 EXAMINATION INDEX</p> <p>24 WITNESS EXAMINED BY PAGE</p> <p>25 Nathan Prince Mr. Thompson 8</p>	<p>1 there anything you want to correct about that?</p> <p>2 MR. THOMPSON: Yeah. No, I think</p> <p>3 that's an accurate recitation of our discussion.</p> <p>4 MR. BRANTINGHAM: Okay. So that's that</p> <p>5 issue.</p> <p>6 The second issue has to do with Mayo's</p> <p>7 production of emails responsive to plaintiff's</p> <p>8 document requests. We have been working on that</p> <p>9 issue and communicating on that issue over the</p> <p>10 last several days. In responding to plaintiff's</p> <p>11 document requests we engaged Mayo's internal</p> <p>12 discovery group, as we typically do, to search</p> <p>13 for responsive emails and produced those that</p> <p>14 we -- that we found. We learned last week in --</p> <p>15 in meetings to prepare for these depositions of</p> <p>16 a couple of emails that had not been located in</p> <p>17 that search which led, I think, Mr. Thompson to</p> <p>18 inquire, and led us to inquire, as to why those</p> <p>19 were not found in the original searches. It is</p> <p>20 now -- we've now been able to discern, and I</p> <p>21 don't have all the information on this yet, that</p> <p>22 there needs to be broader searches, and we're</p> <p>23 running those searches to ensure complete</p> <p>24 production. I, as I said, I don't yet know what</p> <p>25 all the outcome of that will be, but we're</p>
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<p>1 PROCEEDINGS</p> <p>2 MR. BRANTINGHAM: So we're on the</p> <p>3 record and making a record before the witness is</p> <p>4 in the room. It is Tuesday morning, the 13th of</p> <p>5 August. I want to address a couple of discovery</p> <p>6 issues. The first has to do with the disclosure</p> <p>7 of the video used in Dr. Ternus' deposition on</p> <p>8 August 12th, and I just want to make a record</p> <p>9 that coun -- Mr. Thompson and I had a</p> <p>10 conversation with Magistrate Schultz about the</p> <p>11 issue. At the end of the day of the 12th, my</p> <p>12 understanding of the judge's order on the issue</p> <p>13 is that we should proceed with the remaining</p> <p>14 depositions. I understood Mr. Thompson to</p> <p>15 confirm to the judge and to me that plaintiff</p> <p>16 will not be using any documents in the remainder</p> <p>17 of these depositions that have not been produced</p> <p>18 in discovery other than potentially medical</p> <p>19 literature. And my understanding of the judge's</p> <p>20 order was that plaintiff is precluded from</p> <p>21 referring to the video of Dr. Ternus, the</p> <p>22 statements made in the video, or the testimony</p> <p>23 about the video garnered yesterday, in any of</p> <p>24 the remaining depositions.</p> <p>25 Do you share that understanding, or is</p>	<p>1 working on it literally as we speak. I do think</p> <p>2 there's some possibility that a few additional</p> <p>3 emails may be located. We are going to do our</p> <p>4 best to produce any of those that we can to you</p> <p>5 before the witness that it relates to sits down</p> <p>6 for deposition. But I don't -- I don't yet know</p> <p>7 precisely how that process is going to unfold.</p> <p>8 To the extent emails are discovered</p> <p>9 after the -- after a deposition is completed,</p> <p>10 we'll make that witness available to answer</p> <p>11 questions about that email, if needed. And I</p> <p>12 think we can discuss, you know, how to -- how to</p> <p>13 remedy any -- any potential problem that arises</p> <p>14 from this, but wanted to make you aware of</p> <p>15 the -- the additional search and what we're</p> <p>16 doing about it.</p> <p>17 I am not aware of any -- I'm not</p> <p>18 presently aware of any responsive information</p> <p>19 about Mr. Prince, who's the next deponent, so I</p> <p>20 think we can proceed with that one.</p> <p>21 MR. THOMPSON: Okay. Appreciate that.</p> <p>22 MR. BRANTINGHAM: Anything else you</p> <p>23 wanted to add?</p> <p>24 MR. THOMPSON: I noticed there's a</p> <p>25 video camera up there.</p>

<p style="text-align: right;">Page 6</p> <p>1 MR. BRANTINGHAM: Okay.</p> <p>2 MR. THOMPSON: Is that recording?</p> <p>3 MR. BRANTINGHAM: I have no idea.</p> <p>4 MR. THOMPSON: It might be --</p> <p>5 Maybe let's find that out, and also</p> <p>6 find out if -- I doubt there's audio, but we've</p> <p>7 been having conversations in here during breaks</p> <p>8 and things like that, so it would be good to</p> <p>9 know, especially in light of the hullabaloo</p> <p>10 about the video yesterday, if I'm being recorded</p> <p>11 without my knowledge or consent. It would</p> <p>12 probably be good to know that, so --</p> <p>13 MR. BRANTINGHAM: Okay. Well I -- I</p> <p>14 can assure you if you are, you won't have it</p> <p>15 sprung on you in a deposition. But I will find</p> <p>16 out the answer to that question.</p> <p>17 MR. THOMPSON: Okay.</p> <p>18 MR. BRANTINGHAM: Okay. Thanks. I'll</p> <p>19 go get the witness and we will proceed.</p> <p>20 THE REPORTER: Okay. Off the record.</p> <p>21 (Recess taken from 9:04 a.m. to 9:07</p> <p>22 a.m.)</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 good.</p> <p>2 MS. SHULMAN: I do believe Norman and</p> <p>3 Karen are now with Michelle. Is that correct?</p> <p>4 MS. SIMHA: No. No, they're not here</p> <p>5 yet, but --</p> <p>6 MR. THOMPSON: That's okay.</p> <p>7 MR. SIMHA: -- they should be in the</p> <p>8 room.</p> <p>9 MR. THOMPSON: Sounds good. All right.</p> <p>10 You guys go ahead and mute, and then we'll get</p> <p>11 started.</p> <p>12 (Witness sworn.)</p> <p>13 NATHAN PRINCE,</p> <p>14 called as a witness, being first duly</p> <p>15 sworn, was examined and testified as</p> <p>16 follows:</p> <p>17 EXAMINATION</p> <p>18 BY MR. THOMPSON:</p> <p>19 Q. Good morning.</p> <p>20 A. Good morning.</p> <p>21 Q. Have you ever had your deposition taken</p> <p>22 before?</p> <p>23 A. This is my first.</p> <p>24 Q. All right. So just a couple of quick</p> <p>25 ground rules to make sure that we're on the same</p>
<p style="text-align: right;">Page 7</p> <p>1 THE VIDEOGRAPHER: Good morning. We</p> <p>2 are on the record. Today is August 13th, 2024.</p> <p>3 The time is 9:07 a.m. Today's case caption is</p> <p>4 Simha versus Mayo Clinic. The witness for</p> <p>5 today's deposition is Nathan Prince.</p> <p>6 At this time the attorneys for the</p> <p>7 various parties will introduce themselves and</p> <p>8 the court reporter will swear the witness.</p> <p>9 MR. THOMPSON: Brandon Thompson along</p> <p>10 with Anna Messerly for the plaintiff.</p> <p>11 MR. BRANTINGHAM: Can we please get a</p> <p>12 rollcall of the Zoom attendees as well?</p> <p>13 MR. THOMPSON: You want to do your</p> <p>14 appearance?</p> <p>15 MR. BRANTINGHAM: Sure. Andrew</p> <p>16 Brantingham on behalf of the defendant and the</p> <p>17 witness.</p> <p>18 MR. THOMPSON: And on Zoom today we've</p> <p>19 got Maggie, Jenna -- Maggie Palmisano, my</p> <p>20 paralegal, Jenna Leopold Shulman, Michelle</p> <p>21 Simha, and then Norman and Karen Leopold are</p> <p>22 going to be joining as able.</p> <p>23 Is there anybody else on the Zoom?</p> <p>24 (No response.)</p> <p>25 MR. THOMPSON: All right. Okay. We're</p>	<p style="text-align: right;">Page 9</p> <p>1 page, we get a nice, clean record, and we kind</p> <p>2 of get this going as smoothly as we can. Okay?</p> <p>3 A. (Nodding.)</p> <p>4 Q. The first thing is you got to say</p> <p>5 "yes." You can't just nod your head.</p> <p>6 A. Yes.</p> <p>7 Q. All right.</p> <p>8 A. Very good.</p> <p>9 Q. Try to avoid uh-huhs and huh-uhs</p> <p>10 because those are difficult for the court</p> <p>11 reporter to take down. Let's really try to</p> <p>12 avoid talking over one another, because that</p> <p>13 makes her job really hard. Understood?</p> <p>14 A. I'll do my best.</p> <p>15 Q. All right. Probably the most important</p> <p>16 rule of a deposition is if any of my questions</p> <p>17 are unclear to you in any way, I want you to let</p> <p>18 me know so I can rephrase it, we can get on the</p> <p>19 same page before you give an answer. Okay?</p> <p>20 A. Okay.</p> <p>21 Q. All right. So what is your current</p> <p>22 role at Mayo?</p> <p>23 A. I'm currently a pretransplant</p> <p>24 heart/lung coordinator.</p> <p>25 Q. Give me a 30,000-foot view of what your</p>

<p style="text-align: right;">Page 10</p> <p>1 job entails, please.</p> <p>2 A. So I work with patients from the moment</p> <p>3 they are first referred for consideration of</p> <p>4 transplant through the point where they are</p> <p>5 ultimately transplanted and handed off to the</p> <p>6 post-transplant team. So in between that time</p> <p>7 I, initially upfront, assist with record review</p> <p>8 to see whether there are any reasons why upfront</p> <p>9 a patient may not be a candidate or -- I don't</p> <p>10 make that call, but I -- I do some record review</p> <p>11 to provide to our leadership who decide, you</p> <p>12 know, whether we can offer evaluation. Once</p> <p>13 it's been determined a patient can come for</p> <p>14 evaluation, I will place orders for the initial</p> <p>15 evaluation when they come for that. I do a</p> <p>16 teach session with them and then follow through</p> <p>17 the process of the evaluation. Patients who --</p> <p>18 at the end of the evaluation are determined</p> <p>19 whether they are going to be offered transplant</p> <p>20 right away or whether it's something perhaps</p> <p>21 down the -- down the road that they could be a</p> <p>22 candidate for or denied. If they're approved or</p> <p>23 "deferred" is our term for being kind of in that</p> <p>24 inter -- interim period, I would follow along.</p> <p>25 I would be their primary contact person in</p>	<p style="text-align: right;">Page 12</p> <p>1 use?</p> <p>2 A. I do not make any of those decisions.</p> <p>3 There are standard parameters that kind of, as a</p> <p>4 default, apply unless we are instructed</p> <p>5 otherwise.</p> <p>6 Q. Got it.</p> <p>7 Are you part of the selection</p> <p>8 committee?</p> <p>9 A. I am present. Yes.</p> <p>10 Q. Given your answer and some of the</p> <p>11 things you said previously, I'm guessing you</p> <p>12 don't really have decision-making authority at</p> <p>13 the selection committee, you're there as a</p> <p>14 resource.</p> <p>15 A. I would say I am free to voice any</p> <p>16 concerns. My opinion is valued by the team.</p> <p>17 I've never said that I am the sole disagree on</p> <p>18 something, so I'm not, you know -- or -- or the</p> <p>19 sole proponent of something, you know. It's</p> <p>20 taken as a group decision and I voice my</p> <p>21 opinion, but I am probably a less-vocal member</p> <p>22 in the selection conference, but I am present</p> <p>23 and engaged.</p> <p>24 Q. How many people typically sit on the</p> <p>25 selection committee?</p>
<p style="text-align: right;">Page 11</p> <p>1 general in the con -- in the transplant center</p> <p>2 and arrange for follow-up appointments. If they</p> <p>3 have questions, I would reach out or direct them</p> <p>4 to the appropriate person. I'm --</p> <p>5 So I'm basically the main contact</p> <p>6 person prior to the actual transplant. Not the</p> <p>7 only person, but kind of the person who</p> <p>8 intercedes a lot of messages.</p> <p>9 Q. Is your role today different than it</p> <p>10 was in August of 2023?</p> <p>11 A. It is not.</p> <p>12 Q. Okay. Is one of the things that you do</p> <p>13 as part of your role entering information into</p> <p>14 UNet?</p> <p>15 A. It is.</p> <p>16 Q. Some of the documents that we've been</p> <p>17 provided in this case include -- I kind of refer</p> <p>18 to it as like parameters for what sort of organs</p> <p>19 Noah Leopold will be willing to accept, like</p> <p>20 this geographic range, and this weight to this</p> <p>21 weight, and this age to this age. You're</p> <p>22 responsible for putting that information in</p> <p>23 there?</p> <p>24 A. I do enter that information.</p> <p>25 Q. How would you decide what parameters to</p>	<p style="text-align: right;">Page 13</p> <p>1 Is it a committee or conference? I</p> <p>2 want to make sure I'm getting the terminology</p> <p>3 right.</p> <p>4 A. The committee is the group. We call it</p> <p>5 selection conference is the -- the meeting.</p> <p>6 Q. The process. Got it.</p> <p>7 A. Yeah. There are --</p> <p>8 So I take attendance as part of it.</p> <p>9 Rough estimate would be, on an average week,</p> <p>10 between 20 and 30 people.</p> <p>11 Q. Oh, wow. Okay. Just for heart</p> <p>12 transplants.</p> <p>13 A. So --</p> <p>14 That's a good question. I am a</p> <p>15 heart/lung transplant coordinator, and the lung</p> <p>16 transplant selection conference is at the same</p> <p>17 time, so we will present heart and lung patients</p> <p>18 at the same meeting. So there could be -- in</p> <p>19 that attendance would be pulmonologists as well.</p> <p>20 Q. Sure. Who, for somebody who's just</p> <p>21 getting a solitary heart transplant, may or may</p> <p>22 not weigh in on the conversation.</p> <p>23 A. Correct. They just kind of sit in the</p> <p>24 background. If -- if there is a question that</p> <p>25 comes up regarding, you know, a general lung</p>

4 (Pages 10 to 13)

<p style="text-align: right;">Page 14</p> <p>1 or -- you know, they might -- might answer 2 questions if asked as like a consultation. But 3 generally, the -- the group that is not 4 present -- or if it's a -- a lung, it's the lung 5 providers who are speaking. If it's a heart, 6 it's the heart providers who are speaking. 7 Q. Understood. 8 So one of your roles is to be an 9 educator for the patients; right? 10 A. That is correct. 11 Q. In looking at a lot of the materials 12 that we've been provided in this case, it looks 13 like certainly the doctors answer the patients' 14 questions, but you're sort of -- I don't know if 15 it's a function of you have more time or that's 16 just kind of more of your role -- but it looks 17 like you're delving a lot deeper into a lot of 18 these issues with patients. Am I right about 19 that? 20 A. I guess how I would phrase it is when 21 messages come in, they're -- I'm kind of the 22 filter before the provider. So messages, even 23 though someone sends in a message to a provider, 24 they get forwarded to me to kind of screen 25 first. Not every question that comes in needs a</p>	<p style="text-align: right;">Page 16</p> <p>1 in the evaluation. I do not have anything to do 2 with consent for the actual transplant 3 procedure. My -- my understanding is when an 4 offer is made, the -- one of the providers, 5 whether the surgeon or the -- the medical 6 cardiologist in the hospital, would go and 7 obtain the -- the consent from them. 8 Q. Because you act as a point person or a 9 liaison for the patients, certainly you have a 10 lot of information about the patient and what 11 their preferences are and what their concerns 12 are and things like that. Right? 13 A. It varies from patient to patient based 14 on how well I get to know them. 15 Q. Sure. Do you remember Noah Leopold? 16 A. Very well. 17 Q. Would you agree with me that on the 18 spectrum of patients who had a lot of questions, 19 he would be a -- pretty far on the side of lots 20 of questions? 21 A. That would be accurate. 22 Q. Can you think of a patient that you've 23 dealt with that had more involved and in-depth 24 questions than Noah Leopold did? 25 A. As far as questions, I would say he was</p>
<p style="text-align: right;">Page 15</p> <p>1 provider response. If I'm confident in my 2 answer and do not feel the need to engage a 3 provider, I can take care of it. If it's 4 outside of my scope of practice, I will provide 5 a little summary and my question, and then 6 forward it on to a provider to give expert 7 opinion or advice. 8 Q. Would I be correct in assuming that 9 sort of a formal ultimate informed-consent 10 discussion would not be something that you would 11 be doing with the patient? 12 MR. BRANTINGHAM: Object to form and 13 foundation as to the definition of a "formal 14 ultimate." Go ahead if you're able. 15 A. Are you referring to informed consent 16 for the transplant procedure? 17 Q. Yeah. 18 A. Okay. I would have nothing to do with 19 that. I -- 20 As part of my education, I -- and 21 Noah's a little different because he started the 22 process before I was a transplant coordinator -- 23 but the informed consent I obtain from patients 24 is saying that they want to proceed with the 25 evaluation, that they understand what's involved</p>	<p style="text-align: right;">Page 17</p> <p>1 probably the -- he -- I would, with confidence, 2 say he had the most questions that I can recall 3 of my patients. 4 Q. And for how long have you been doing 5 this job? 6 A. I will be in this position for three 7 years at the end of this month. 8 Q. How many patients do you think you've 9 acted as the liaison to at Mayo, roughly? 10 A. Two hundred maybe. That's just a 11 ballpark. 12 Q. No. That's fair. 13 How knowledgeable are you about the -- 14 the process of what happens once an offer comes 15 in? 16 A. I have a vague 30,000-foot view of what 17 happens. 18 Q. Okay. I'm going to delve into that a 19 little bit with you because you've got some 20 understanding of it, and I'm trying to kind of 21 get my head wrapped around the way that this 22 process works. 23 So number one, somebody's got to be 24 accepted and listed for transplant; right? 25 A. Correct.</p>

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<p style="text-align: right;">Page 18</p> <p>1 Q. And then once they're listed for</p> <p>2 transplant, data would be put into UNet sort of</p> <p>3 to try to capture what sort of organ that person</p> <p>4 would be offered. Is that fair?</p> <p>5 A. Yes, more or less.</p> <p>6 Q. When I look at the parameters that were</p> <p>7 entered for Noah Leopold, to a layperson it</p> <p>8 looks like an extraordinarily broad parameter.</p> <p>9 And so my question to you is: Is that</p> <p>10 intentional? Is the goal to kind of cast a wide</p> <p>11 net so that a lot of different offers will come</p> <p>12 in so that the transplant doctors have lots of</p> <p>13 options to choose from?</p> <p>14 MR. BRANTINGHAM: Object to the form.</p> <p>15 Go ahead if you're able.</p> <p>16 A. That is my understanding. So the --</p> <p>17 the --</p> <p>18 My understanding is they have cast --</p> <p>19 exactly, your words exactly -- cast a broad net.</p> <p>20 It doesn't mean that they accept anything, it</p> <p>21 just means they want the opportunity to look at</p> <p>22 things.</p> <p>23 Q. Right. And that makes sense.</p> <p>24 A. A lot of things do not meet criteria</p> <p>25 and are immediately excluded from consideration;</p>	<p style="text-align: right;">Page 20</p> <p>1 not hear from him. When --</p> <p>2 In the months preceding to when we</p> <p>3 decided it was time to list him for transplant,</p> <p>4 things had been going worse for him back in</p> <p>5 Florida, a lot of rhythm -- heart-rhythm issues,</p> <p>6 and he was reaching out on a regular basis. Not</p> <p>7 even necessarily for transplant-related things,</p> <p>8 but just because he valued our opinion and</p> <p>9 wanted his transplant team back here in the</p> <p>10 overall kind of aware of the situation and</p> <p>11 seeing if there's any other guidance they would</p> <p>12 give. So he definitely reached out to us as</p> <p>13 like a -- a source of confidence, but he did</p> <p>14 have a lot of questions. He was not hesitant to</p> <p>15 voice those questions. So I received a lot of</p> <p>16 messages from him throughout the -- probably the</p> <p>17 eight months prior to transplant listing that I</p> <p>18 worked with him closely with.</p> <p>19 Q. Did you ever get the sense that there</p> <p>20 was anything that the transplant team was asking</p> <p>21 Noah to do that he wasn't doing?</p> <p>22 MR. BRANTINGHAM: Foundation, but you</p> <p>23 can go ahead.</p> <p>24 A. I -- I think that he valued our opinion</p> <p>25 and they gave it. He was an anxious gentleman,</p>
<p style="text-align: right;">Page 19</p> <p>1 others have closer look.</p> <p>2 Q. Yeah. I mean, for example, the maximum</p> <p>3 acceptable donor weight that was put into UNet</p> <p>4 for Noah Leopold was 265 kilograms.</p> <p>5 A. Yes.</p> <p>6 Q. Nobody was going to try to put the</p> <p>7 heart of a 500-some-pound person into Noah</p> <p>8 Leopold; right?</p> <p>9 A. That is somewhat speculation on my</p> <p>10 point, but that was my -- that would be my</p> <p>11 understanding.</p> <p>12 Q. Yeah. Fair enough.</p> <p>13 All right. Tell me in a nutshell --</p> <p>14 you said that you remember Noah very well --</p> <p>15 tell me what you remember about him.</p> <p>16 A. So he had been followed by the program</p> <p>17 for a number of years. When I took over in the</p> <p>18 role, he was already well established. What I</p> <p>19 recall was I don't believe we actually saw him</p> <p>20 super frequently when things were stable the</p> <p>21 first year or two that I cared for him, but</p> <p>22 when -- when he did reach out it was kind of</p> <p>23 usually in a barrage of a lot of questions, kind</p> <p>24 of a -- a little period of intensity and a lot</p> <p>25 of attention given to his case, and then I would</p>	<p style="text-align: right;">Page 21</p> <p>1 so I think it took time for him to compute what</p> <p>2 the recommendations were. I -- I don't think</p> <p>3 that he was forced to do anything, if that's</p> <p>4 what you're asking.</p> <p>5 I guess I don't -- could you --</p> <p>6 Q. Yeah. So let me just give you an</p> <p>7 example. I'm guessing that --</p> <p>8 Well one of the things that you really</p> <p>9 want transplant patients to do before their</p> <p>10 transplant is eat a healthy diet and get</p> <p>11 exercise and kind of get themselves in the best</p> <p>12 shape that they can --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- for the transplant. Fair?</p> <p>15 A. Yep.</p> <p>16 Q. I'm guessing that there's some patients</p> <p>17 who, even though you tell them "Look, we really</p> <p>18 think you need to do this," they don't exactly</p> <p>19 follow through on your recommendations. Is that</p> <p>20 fair?</p> <p>21 A. Sure. There's always issues with</p> <p>22 certain patients' compliance.</p> <p>23 Q. Sure. And not just with diet and</p> <p>24 exercise, but lots of different things with</p> <p>25 compliance; right?</p>

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<p style="text-align: right;">Page 22</p> <p>1 A. Yes.</p> <p>2 Q. Did you have any concerns along the</p> <p>3 lines of compliance with Noah?</p> <p>4 A. I did not.</p> <p>5 (Discussion off the record.)</p> <p>6 BY MR. THOMPSON:</p> <p>7 Q. Okay. So one of the things that we</p> <p>8 received from Mayo in the course of this</p> <p>9 lawsuit --</p> <p>10 One of the things that happens in these</p> <p>11 lawsuits is both sides get to make requests to</p> <p>12 the other side for -- to have documents sent to</p> <p>13 them, and as you imagine, we got tens of</p> <p>14 thousands of pages of documents about Noah. One</p> <p>15 of the things we got is an email that you sent</p> <p>16 on Wednesday, August 16th to the DL Transplant</p> <p>17 Listing.</p> <p>18 A. Listing. Yeah. I --</p> <p>19 Q. What is that?</p> <p>20 MR. BRANTINGHAM: Can I get the Bates</p> <p>21 number on that document?</p> <p>22 MR. THOMPSON: Oh, yeah. 25200.</p> <p>23 A. So I -- I -- I know that date because I</p> <p>24 looked up things before I came in. That would</p> <p>25 have been the date in which I listed him for</p>	<p style="text-align: right;">Page 24</p> <p>1 have to do this together because we've only got</p> <p>2 one copy -- it looks to me like there's actually</p> <p>3 a nar -- this is not a cut-and-paste. This is a</p> <p>4 narrative that you put together at the top of</p> <p>5 the email; right?</p> <p>6 A. Yep. And so --</p> <p>7 Q. Hold on.</p> <p>8 MR. BRANTINGHAM: Let him finish the</p> <p>9 question.</p> <p>10 A. Oh, my -- my fault.</p> <p>11 Q. Yeah. That's okay.</p> <p>12 Just let me ask my questions --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- and then -- I know you want to</p> <p>15 explain something, and that's great. We'll do</p> <p>16 that in a sec, but we just got to make sure we</p> <p>17 get a clean record.</p> <p>18 So there's kind of a narrative at the</p> <p>19 top that you put in; right?</p> <p>20 A. That's correct.</p> <p>21 Q. And then below that, starting here and</p> <p>22 going on to the next page, --</p> <p>23 A. Uh-huh.</p> <p>24 Q. -- that's the cut-and-paste stuff</p> <p>25 that's coming out of the system; right?</p>
<p style="text-align: right;">Page 23</p> <p>1 transplant in UNOS.</p> <p>2 Q. Yep. Who's on the DL RST Transplant</p> <p>3 Center HL Transplant Listing?</p> <p>4 A. It's an enormous list. I couldn't tell</p> <p>5 you everyone.</p> <p>6 Q. Fair enough.</p> <p>7 A. I believe when I send it out it says</p> <p>8 something like 84 recipients.</p> <p>9 Q. It's a --</p> <p>10 Whenever you list somebody for a</p> <p>11 transplant, it's kind of an email blast that</p> <p>12 goes out to anybody who that may be relevant to.</p> <p>13 A. Correct.</p> <p>14 Q. One of the things that you say in this</p> <p>15 email --</p> <p>16 I'm gathering you reviewed this email</p> <p>17 before your deposition.</p> <p>18 A. I did not look closely at it. I mean</p> <p>19 the -- if it's the email that went for the</p> <p>20 listing, it's a standard email that gets filled</p> <p>21 in. It's a copy-and-paste from a document</p> <p>22 that's put in Epic -- or in the medical record</p> <p>23 that just shares the same information for team</p> <p>24 awareness, but --</p> <p>25 Q. It looks to me -- and we're going to</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Correct.</p> <p>2 Q. Okay. What were you trying to tell me</p> <p>3 before I so rudely cut you off?</p> <p>4 A. I was going to basically say what you</p> <p>5 were saying. Yep.</p> <p>6 Q. Gotcha.</p> <p>7 A. Most of it is pulled in from -- from</p> <p>8 prefilled fields in the medical record, but</p> <p>9 that -- at that top, if there's any additional</p> <p>10 pertinent information, we will put in a little</p> <p>11 comment.</p> <p>12 Q. One of the things that came from the</p> <p>13 record is that a -- he's got a Karnofsky score</p> <p>14 of 30 percent. And I'll tell you there's other</p> <p>15 places in the record where his Karnofsky score,</p> <p>16 at admission, is listed at 90.</p> <p>17 A. So --</p> <p>18 Q. Can you shed any light on the</p> <p>19 discrepancy?</p> <p>20 A. My -- I'd have to look at --</p> <p>21 So when he was first admitted, I'm</p> <p>22 assum --</p> <p>23 He was admitted with a balloon pump, so</p> <p>24 that automatically -- his physical ability to</p> <p>25 get around may not have been inhibited, but the</p>

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<p style="text-align: right;">Page 26</p> <p>1 fact that he was now attached to, you know, 12</p> <p>2 EGC leads, a pump in his arm, an IV pole, his</p> <p>3 ability to get around without assistance was</p> <p>4 altered because of the fact that he was</p> <p>5 connected to so much machinery that really</p> <p>6 required staff assistance, because it would put</p> <p>7 him at risk if he was trying to do things</p> <p>8 independently.</p> <p>9 Q. Of pulling things out.</p> <p>10 A. Correct.</p> <p>11 Q. Lines and things like that.</p> <p>12 A. Exactly.</p> <p>13 Q. So when this says "Karnofsky Score: 30%</p> <p>14 - Severely Disabled," nobody should interpret</p> <p>15 that as being a comment on his like physical</p> <p>16 status.</p> <p>17 MR. BRANTINGHAM: Object to the form.</p> <p>18 A. My --</p> <p>19 Yes, I can understand how you read</p> <p>20 that. It's more that hospitalization is</p> <p>21 indicated. It's trying to fit the picture of</p> <p>22 what's happening to a score that correlates.</p> <p>23 But within that, you know, there's certain</p> <p>24 people who are certainly sicker, more bedbound</p> <p>25 and confined who could also have a similar</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. I assume that you've been involved in</p> <p>2 caring for lots of patients who were status 2.</p> <p>3 A. Yes.</p> <p>4 Q. On the spectrum of sort of overall</p> <p>5 strength and how well they were doing, where</p> <p>6 would Noah fall in terms of status 2 patients?</p> <p>7 MR. BRANTINGHAM: Form and foundation.</p> <p>8 Go ahead if you're able.</p> <p>9 A. It's difficult to say. He's -- he was</p> <p>10 young, and I think the feeling was he had a</p> <p>11 really bad heart, but because he was young he</p> <p>12 had compensated, he might have looked better</p> <p>13 than what his heart numbers really said. And</p> <p>14 that was the concern, that he was kind of a --</p> <p>15 things could change at any time, and where he --</p> <p>16 he had gotten away without a lot of other</p> <p>17 issues, that could quickly change.</p> <p>18 I would be honest, there's a whole</p> <p>19 range. We've definitely had people with status</p> <p>20 2s that are on balloon pumps who are sicker.</p> <p>21 We've definitely had people who are similar to</p> <p>22 him. So I would say definitely leaning on the</p> <p>23 health -- or on the -- like the more-fit side,</p> <p>24 but kind of middle of the pack on the fit side.</p> <p>25 Q. Got it. I appreciate that.</p>
<p style="text-align: right;">Page 27</p> <p>1 score.</p> <p>2 Q. Yep. But that wasn't Noah; right?</p> <p>3 A. Correct.</p> <p>4 Q. He was actually, from a --</p> <p>5 I mean obviously his heart was bad</p> <p>6 because he needed a heart transplant, but</p> <p>7 overall he was in pretty doggone good health</p> <p>8 other than that; right?</p> <p>9 MR. BRANTINGHAM: Foundation.</p> <p>10 A. His heart was very sick, but he had</p> <p>11 remained -- I wouldn't -- don't know if the word</p> <p>12 is compensated, but he was, you know, still out</p> <p>13 and about, had been able to do a lot of things</p> <p>14 of daily living. I know before he came in, one</p> <p>15 of the questions he'd asked was whether he'd be</p> <p>16 able to do rehab and exercise, like these things</p> <p>17 were important to him and he would like --</p> <p>18 As you had pointed out, it's important</p> <p>19 to us to keep patients fit, and so I would</p> <p>20 agree, he -- he was -- had a sick heart, but he</p> <p>21 was doing his best to be as fit as possible.</p> <p>22 Q. He was listed as a status 2</p> <p>23 automatically because he had that balloon pump</p> <p>24 in place; right?</p> <p>25 A. That is correct.</p>	<p style="text-align: right;">Page 29</p> <p>1 One of the things that you say in this</p> <p>2 email to -- this email blast, "per discussion</p> <p>3 yesterday, he currently remains undecided about</p> <p>4 Hep C+ and DCD donors and his listing reflects</p> <p>5 this." Do you recall the discussion that you</p> <p>6 had with Noah about his unwillingness -- or his</p> <p>7 undecidedness about --</p> <p>8 A. Uh-huh.</p> <p>9 Q. -- those two categories of donor?</p> <p>10 A. I don't have a -- a specific</p> <p>11 recollection of the conversation.</p> <p>12 Q. Okay. You go on to say, "His hope is</p> <p>13 that by being listed Status 2, he would get an</p> <p>14 offer without these attributes." What does that</p> <p>15 mean?</p> <p>16 A. So he --</p> <p>17 You know, like I said, he was -- he was</p> <p>18 very cautious and I -- these topics had prob --</p> <p>19 the topics of hepatitis C and -- and DCD had</p> <p>20 likely been discussed with him prior to myself</p> <p>21 with other providers, but it wasn't clearly</p> <p>22 documented anywhere so I would have inquired</p> <p>23 whether he had made a decision. Following that</p> <p>24 discussion, he indicated that he was not ready</p> <p>25 to make a decision and was feeling uncertain</p>

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<p style="text-align: right;">Page 30</p> <p>1 about those donors. That's not uncommon. 2 Sometimes patients, you know, when they are 3 learning things, they're just overwhelmed with 4 all the different things they need to consider 5 and so they're not ready to make an answer. But 6 it is something that in order -- on UNet it is 7 something that I need to select to opt into to 8 allow those particular donors to filter through 9 so that they can be considered. If a patient 10 hasn't clearly consented to that, I will not 11 open that -- up those fields in UNOS. 12 So when he said he hopes that he would 13 be transplanted without it, he was status 2, so 14 you -- patients are coming up high on the list 15 in general because it's a high-urgency status, 16 and my understanding was he hoped he didn't need 17 to make a decision about that and -- but 18 regarding -- 19 Q. Because in -- 20 Let's see if I can put it in kind of 21 layman's terms here to -- 22 Taking a DCD heart or hep C is sort of 23 a little bit of a compromise; right? 24 MR. BRANTINGHAM: Object to the form 25 and foundation.</p>	<p style="text-align: right;">Page 32</p> <p>1 a heart from a hep-C-positive donor that don't 2 exist in the patient who doesn't have hepatitis 3 C; right? 4 A. A known risk. Yeah. 5 Q. Sure. Ideally a patient would get a 6 heart that doesn't have the hepatitis C virus; 7 right? 8 A. I don't -- 9 I think it's -- it's a challenging 10 question because, you know, the reality is it's 11 very difficult to find the very picture-perfect, 12 no-risk-factors like heart. The -- we don't 13 want people dying on the waitlist because they 14 haven't been able to be transplanted. So it 15 feel -- it is certainly something that takes 16 extra preparation and additional -- potentially 17 additional treatment, but the feeling is that 18 there is a good treatment plan should a patient 19 contract hepatitis C where the -- the potential 20 risks are much less than the potential of having 21 to wait for extended periods of time to get a 22 heart. 23 Q. But ultimately it's the patient's 24 decision to decide how they want to weigh those 25 risks; right?</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. And if you don't understand what I'm 2 saying -- 3 A. No. I understand what you're saying. 4 I'm just -- 5 Q. Ideally you wouldn't have to take a DCD 6 heart; right? 7 A. So I don't know if that's accurate. 8 It's the less-traditional donor group. It's 9 something they've been doing more and more. 10 My -- what I have been told is long-term 11 outcomes are similar, and so the -- the team 12 feels that they're a -- some -- an option that 13 should be considered. Whether it's a 14 compromise, I do not know. All I know is that, 15 as a group, our team wants to have the option to 16 look at those offers. 17 Q. Sure. 18 MR. BRANTINGHAM: When you hit a break 19 point, can we just take two minutes? 20 MR. THOMPSON: Yeah. 21 MR. BRANTINGHAM: Is this a good 22 moment? 23 MR. THOMPSON: No, just let me 24 finish -- just let me finish this up. 25 Q. There are risks associated with taking</p>	<p style="text-align: right;">Page 33</p> <p>1 A. So a patient always has the ability to 2 turn down an offer when it is accepted. If a 3 surgeon offers -- or accepts an offer that -- 4 you know, if -- if, in this hepatitis C example, 5 if a patient has consented to consider those 6 offers and the surgical team feel this is a good 7 offer, the patient does have the -- the ability 8 to turn down an offer. They -- that is 9 something that is granted them. 10 Q. Well of course. I mean the -- it's the 11 patient's -- 12 A. So they get -- 13 Q. The patient ultimately has the right -- 14 MR. BRANTINGHAM: Hold on. 15 Q. The patient ultimately has the right to 16 decide when the doctor is going to cut their 17 heart out and then which other heart they're 18 going to take and put inside their body. That's 19 the patient's decision. 20 MR. BRANTINGHAM: Is that -- 21 What's the question, yes or no -- 22 MR. THOMPSON: Yeah. 23 MR. BRANTINGHAM: -- to that statement? 24 A. They always have the ability to turn 25 down an offer.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. Based on your conversations with Noah 2 Leopold, the question of whether a donor heart 3 that was being offered for him was a DCD heart 4 would have been a significant factor to him; 5 right? 6 MR. BRANTINGHAM: Foundation. 7 A. I can't say what he would think is 8 significant. He did have a lot of questions. 9 If it was a DCD offer, my understanding is that 10 would have been informed to him -- or he would 11 have been informed of that. 12 Q. Why can't you say that it would have 13 been significant to him given the fact that you 14 had a specific conversation with him about it 15 and he said, "Boy, you know what, I'm just not 16 sure yet whether I want to go with a DCD heart?" 17 A. Well if -- if that was the case, we 18 would have never let DCD offers come through. 19 So the only time -- the only way he would 20 have -- 21 If he said he is not interested in DCD 22 and he was not listed for DCD, then I would have 23 not put in a DCD -- accept DCD for an offer. 24 Q. And you didn't. 25 A. That's my understanding.</p>	<p style="text-align: right;">Page 36</p> <p>1 a.m.) 2 THE VIDEOGRAPHER: We're on video. 3 THE REPORTER: We're on the record. 4 MR. THOMPSON: Before we go back and 5 ask questions, we -- we took a short break, and 6 during the break Mr. Brantingham was conferring 7 with the witness out in the hallway. I think 8 that happened multiple times yesterday. In 9 fact, during Dr. Ternus' deposition, we took a 10 break, a lengthy break, and when Mr. Brant -- 11 when we came back, Mr. Brantingham asked Dr. 12 Ternus a series of transparently leading 13 questions that ultimately led to Dr. Ternus 14 giving completely different testimony than he 15 had given just a few minutes before. The law in 16 federal court is clear, depositions are supposed 17 to proceed as if it is testimony at trial and 18 attorneys are not allowed to confer with 19 witnesses during the course of the deposition. 20 Mr. Brantingham has asked me to cite him law on 21 that. Just one case right off the top of our 22 heads here is Security National Bank of Sioux 23 City Iowa versus Abbott Laboratories, 24 C11-4017-MWB. That's out of the Northern 25 District of Iowa Western Division, July 28th,</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. Right. 2 A. We've got the papers. 3 Q. So again, whether it was a DCD heart or 4 not obviously was significant to Noah, because 5 he said if it's DCD, I don't want it; right? 6 A. That was his -- that was -- 7 He didn't say I didn't want it. He 8 didn't -- wasn't ready to make a decision on it, 9 so he was not ready to consider those. 10 Q. Well and changes were made to the UNet 11 parameters for Noah. Are you aware of that? 12 A. So I am not aware of changes that were 13 made. Once a patient goes into the hospital, my 14 direct -- 15 So there is an inpatient team, and I 16 listed him initially to -- because I was well 17 acquainted with him. But basically after the 18 16th I was not his primary person of contact or 19 the person who would have been contacted to make 20 changes. 21 Q. Understood. 22 MR. THOMPSON: We can go ahead and take 23 that break now. 24 THE REPORTER: Okay. Off the record. 25 (Recess taken from 9:41 a.m. to 9:43</p>	<p style="text-align: right;">Page 37</p> <p>1 2014. I would be happy to provide Mr. 2 Brantingham with dozens of other cases that say 3 the same thing. 4 MR. BRANTINGHAM: Can you give me a 5 cite for that? 6 MR. THOMPSON: You -- 7 No, it's on Google Scholar. I just 8 gave you the case number. 9 You cannot confer with a witness during 10 the deposition about their testimony. That is 11 just like one of the most basic rules, and it 12 has happened and it needs to stop. 13 MR. BRANTINGHAM: Can you give me the 14 case number of that one more time and the 15 caption? 16 MR. THOMPSON: Yep. Security National 17 Bank of Sioux City versus Abbrot -- Abbott 18 Laboratories, Case Number -- I think there might 19 be a V missing, CV -- I think it's CV -- 20 11-4017-MWB, it's Judge Bennett, July 28th, 21 2014. There's lots of other cases that stand 22 for the same proposition. You can't coach a 23 witness while they're on -- if they're in the 24 middle of a deposition. You just can't do that. 25 MR. BRANTINGHAM: And just for --</p>

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<p style="text-align: right;">Page 38</p> <p>1 MR. THOMPSON: And you clearly did --</p> <p>2 Well just hold on. Let me finish.</p> <p>3 MR. BRANTINGHAM: Sure. Go ahead.</p> <p>4 MR. THOMPSON: You clearly did that</p> <p>5 with Dr. Ternus. There is no way that he</p> <p>6 answers my questions, my very clear questions,</p> <p>7 we take a break, you take him in the back room,</p> <p>8 you come back, ask him a bunch of leading</p> <p>9 questions, and he gives fundamentally different</p> <p>10 testimony trying to walk back what he just told</p> <p>11 me. And you're going to say on the record that</p> <p>12 you didn't talk to him about the questions that</p> <p>13 you were going to ask him? Are you really going</p> <p>14 to say that?</p> <p>15 MR. BRANTINGHAM: I'm not going to</p> <p>16 answer questions about my privileged</p> <p>17 conversations --</p> <p>18 MR. THOMPSON: I didn't -- I didn't</p> <p>19 think so.</p> <p>20 MR. BRANTINGHAM: -- with my clients,</p> <p>21 Brandon.</p> <p>22 MR. THOMPSON: I didn't think you'd be</p> <p>23 willing to go on the record saying that you</p> <p>24 didn't talk with him about his testimony and</p> <p>25 about the questions you were about to ask him,</p>	<p style="text-align: right;">Page 40</p> <p>1 witnesses, when you start interrupting</p> <p>2 witnesses, when you start trying to manipulate</p> <p>3 witnesses, and by the way, when you spring</p> <p>4 discoverable information that you withheld on a</p> <p>5 witness in order to manipulate him and affect</p> <p>6 his testimony, I'm going to make an issue of it.</p> <p>7 So if you want to --</p> <p>8 Again, the judge is waiting to talk to</p> <p>9 us. If you want to get on the phone with the</p> <p>10 judge and ask him if I'm allowed to talk to my</p> <p>11 clients, let's do it, but I'm going to do what</p> <p>12 I'm going to do. And if you think there's an</p> <p>13 issue about that that needs to be addressed</p> <p>14 before we proceed through the rest of these,</p> <p>15 let's get it addressed.</p> <p>16 MR. THOMPSON: No. I'm just putting on</p> <p>17 the record that blackletter law says you cannot</p> <p>18 coach a witness during a deposition when you</p> <p>19 take a break. You say you've been doing this a</p> <p>20 long time. I know you have. The fact that</p> <p>21 you've been doing this a long time and you don't</p> <p>22 know that is actually tremendously concerning.</p> <p>23 MR. BRANTINGHAM: Okay.</p> <p>24 MR. THOMPSON: And your statement on</p> <p>25 the record is making it very clear that you did</p>
<p style="text-align: right;">Page 39</p> <p>1 because you know full well that you did that and</p> <p>2 the transcript makes that transparently clear.</p> <p>3 You also have been coaching these -- not this</p> <p>4 guy today, that's -- I appreciate that --</p> <p>5 yesterday, particularly during AI -- Dr.</p> <p>6 Altarabsheh's deposition, the coaching of the</p> <p>7 witness during the deposition. So I've made my</p> <p>8 record. I hope it doesn't continue.</p> <p>9 MR. BRANTINGHAM: Okay. I'd like to</p> <p>10 respond. I'd like to respond if I could.</p> <p>11 MR. THOMPSON: Sure.</p> <p>12 MR. BRANTINGHAM: I'm happy look at</p> <p>13 these cases. I'm looking at the one you just</p> <p>14 cited. I don't think it says what you claim it</p> <p>15 says at all, and I guess we'll read the law and</p> <p>16 we'll have a debate about it. I've been doing</p> <p>17 this for a long time. I know you have, too.</p> <p>18 Like this ain't my first rodeo, Brandon. I know</p> <p>19 it's not your first rodeo. I've made my</p> <p>20 objections. I'm comfortable with them. I'm</p> <p>21 comfortable with how I'm doing this.</p> <p>22 MR. THOMPSON: Well --</p> <p>23 MR. BRANTINGHAM: You ask a lot of</p> <p>24 deeply inappropriate questions and I'm going to</p> <p>25 object to them. And when you start shouting at</p>	<p style="text-align: right;">Page 41</p> <p>1 coach the witness during breaks and you just</p> <p>2 think that you're allowed to do that because you</p> <p>3 disagree with my interpretation of the law.</p> <p>4 That's fine. You're wrong. I don't have to get</p> <p>5 the judge on the phone. We're going to go ahead</p> <p>6 with this witness, and we'll go ahead with the</p> <p>7 other witnesses as well. I've made my record.</p> <p>8 But Andrew, the fact that you think the</p> <p>9 law allows you to coach a witness in the middle</p> <p>10 of a deposition during a break is ridiculous</p> <p>11 and --</p> <p>12 MR. BRANTINGHAM: I didn't say that</p> <p>13 that's what I'm doing.</p> <p>14 MR. THOMPSON: You -- you absolutely --</p> <p>15 MR. BRANTINGHAM: You would love to</p> <p>16 believe that, and you also have no idea what</p> <p>17 conversations we have.</p> <p>18 MR. THOMPSON: You're right, I don't,</p> <p>19 but the record makes it clear that you coached</p> <p>20 the witness, and the fact that you're not</p> <p>21 denying it makes that even more clear.</p> <p>22 So it's fine. Let's go ahead and</p> <p>23 continue with the deposition.</p> <p>24 Yep.</p> <p>25 THE REPORTER: We're still on. Yep.</p>

11 (Pages 38 to 41)

<p style="text-align: right;">Page 42</p> <p>1 MR. THOMPSON: Oh great. Okay. I</p> <p>2 didn't know if you were on the video already.</p> <p>3 THE VIDEOGRAPHER: Yep. We're on</p> <p>4 video.</p> <p>5 BY MR. THOMPSON:</p> <p>6 Q. All right. Do you know anything about</p> <p>7 the donor heart that was attempted to be</p> <p>8 transplanted into Noah?</p> <p>9 A. I have no knowledge of the donor heart.</p> <p>10 Q. Do you have any knowledge whatsoever of</p> <p>11 what happened when Dr. Villavicencio tried to</p> <p>12 transplant that heart into Noah?</p> <p>13 A. Not specific knowledge. It --</p> <p>14 I have a very base knowledge of what</p> <p>15 I've heard, that the heart initially looked</p> <p>16 good, that something changed between when --</p> <p>17 My understanding was a hematoma</p> <p>18 developed at some point which made the donor</p> <p>19 heart that was previously viable no longer</p> <p>20 viable. That is the extent of my knowledge</p> <p>21 of -- and that was all secondhand based on what</p> <p>22 I had just heard.</p> <p>23 Q. Fair enough.</p> <p>24 Do you know anything about the OCS?</p> <p>25 A. Very little. I know it is utilized to</p>	<p style="text-align: right;">Page 44</p> <p>1 MR. BRANTINGHAM: Foundation.</p> <p>2 A. I do not know for certain. He had</p> <p>3 questions about everything, so it would seem</p> <p>4 likely that he may.</p> <p>5 Q. Did you know that the donor heart, that</p> <p>6 ultimately fell apart when Dr. Villavicencio</p> <p>7 tried to transplant it, came from a meth addict?</p> <p>8 A. I had no knowledge of that.</p> <p>9 Q. Do you think that would have been</p> <p>10 something that Noah would have had some</p> <p>11 questions about?</p> <p>12 MR. BRANTINGHAM: Foundation.</p> <p>13 A. I can't really say. I mean there are</p> <p>14 limits to what can be shared about -- for donor</p> <p>15 anonymity, but I -- he may have been interested.</p> <p>16 Q. And interested probably not in a good</p> <p>17 way. Right? Like based on what you know about</p> <p>18 Noah Leopold, he probably would have -- would</p> <p>19 not have been excited about the idea that the</p> <p>20 donor heart was coming from a meth addict. Can</p> <p>21 we at least agree on that?</p> <p>22 MR. BRANTINGHAM: Foundation.</p> <p>23 A. I can't predict what he would have</p> <p>24 said, but he -- it's possible.</p> <p>25 Q. It's not just possible. Can't you and</p>
<p style="text-align: right;">Page 43</p> <p>1 support organs in transport. I do not know when</p> <p>2 it is opted to be used. It is just something in</p> <p>3 the surgeon's toolkit, but I don't know the</p> <p>4 criteria for when it's used and how it</p> <p>5 functions. I have never even seen the device.</p> <p>6 I just know it exists and that they use it</p> <p>7 sometimes.</p> <p>8 Q. Is talking to patients about the</p> <p>9 possibility that the OCS heart will be used part</p> <p>10 of what you do in your education?</p> <p>11 A. Not usually. Every once in a while</p> <p>12 someone will ask if a heart in a box is used and</p> <p>13 I will just give a -- a generic, broad answer of</p> <p>14 "They can be utilized sometimes, but not</p> <p>15 always."</p> <p>16 Q. And as for specific questions about the</p> <p>17 risks and benefits of the use of the OCS heart,</p> <p>18 you'd send the patient to somebody else to</p> <p>19 answer those questions.</p> <p>20 A. That's correct.</p> <p>21 Q. All right. Based on what you know</p> <p>22 about Noah, if somebody had told him that the</p> <p>23 OCS heart was going to be used for his donor</p> <p>24 heart, do you think maybe he would have had some</p> <p>25 questions about that?</p>	<p style="text-align: right;">Page 45</p> <p>1 I agree, based on what you know about Noah</p> <p>2 Leopold -- I'm not asking you to say with</p> <p>3 certainty because of course you can't know</p> <p>4 anything for certain -- can't you at least agree</p> <p>5 with me that if Noah Leopold had found out that</p> <p>6 the heart they were planning on putting in his</p> <p>7 chest was coming from a meth addict, he would</p> <p>8 have been concerned?</p> <p>9 MR. BRANTINGHAM: Foundation and asked</p> <p>10 and answered.</p> <p>11 A. I can't say --</p> <p>12 I can't tell you exactly what he</p> <p>13 would --</p> <p>14 Q. I'm not asking you exact. I'm not</p> <p>15 asking you certain. I'm asking you probably.</p> <p>16 Based on what you know about that guy,</p> <p>17 come on, can't you agree that he probably would</p> <p>18 have been concerned?</p> <p>19 MR. BRANTINGHAM: Same objections,</p> <p>20 asked and answered a couple times now. Answer</p> <p>21 it one more time.</p> <p>22 A. I cannot tell you what he would have</p> <p>23 been concerned about.</p> <p>24 Q. I know you can't tell me what he would</p> <p>25 have been concerned about. That's why I am</p>

12 (Pages 42 to 45)

<p style="text-align: right;">Page 46</p> <p>1 phrasing my question the way that I am, 2 "probably." He probably would have been 3 concerned. Or are you going to say, under oath, 4 that you can't say that this guy, who had more 5 questions than anyone you've ever dealt with, 6 200 patients, that you don't think he would have 7 been concerned about that heart coming from a 8 meth addict? 9 MR. BRANTINGHAM: So I'm going to 10 object. This is an example of one of those 11 questions, Brandon, that's totally 12 inappropriate. He's now answered the question 13 multiple times. 14 MR. THOMPSON: No, he hasn't. 15 MR. BRANTINGHAM: You're just asking 16 him the same questions and you're trying to 17 bully him into giving an answer that you want. 18 MR. THOMPSON: No. I want him to 19 answer -- 20 MR. BRANTINGHAM: You don't like the 21 answer. 22 MR. THOMPSON: I'm sorry. I would like 23 him to answer the questions I'm asking, not a 24 different question. You may think that he has. 25 I don't think that he has. And I'm going to</p>	<p style="text-align: right;">Page 48</p> <p>1 question that I didn't ask. I didn't ask him 2 "Can you say with certainty that Noah Leopold 3 would have been concerned." I asked him 4 "probably." And if his answer to that is, "You 5 know what, I can't even say that he probably 6 would have been concerned," -- I think that that 7 answer, given his previous testimony about what 8 he knows about this man, would be ridiculous -- 9 but that would be an answer to my question and 10 I'll take it. Do you understand what I'm 11 saying? 12 MR. BRANTINGHAM: I hear the words 13 you're saying. 14 MR. THOMPSON: But do you understand? 15 MR. BRANTINGHAM: I think you're wrong. 16 MR. THOMPSON: You can -- you can think 17 that all day long. 18 MR. BRANTINGHAM: And what I'd like to 19 do is either you can ask the question you want 20 to ask about "probably" and take the answer that 21 he gives you, ask it as clear as you can without 22 a lot of extra words trying to influence the 23 witness. Just ask the question, have him answer 24 it. Otherwise we can go back and read back the 25 last three or four questions.</p>
<p style="text-align: right;">Page 47</p> <p>1 keep at it until I think I've gotten an 2 answer -- 3 MR. BRANTINGHAM: Okay. 4 MR. THOMPSON: -- to my question. 5 MR. BRANTINGHAM: And I -- 6 He's going to answer it one more time. 7 MR. THOMPSON: He's going to -- 8 MR. BRANTINGHAM: And if you're going 9 to ans -- if you're going to ask the same 10 question over and over again, we will have to 11 call the judge -- 12 MR. THOMPSON: That's fine. 13 MR. BRANTINGHAM: -- because there has 14 to be a limit. 15 MR. THOMPSON: I -- I would be -- I 16 would be happy -- happy to get the judge on the 17 phone -- 18 MR. BRANTINGHAM: Okay. 19 MR. THOMPSON: -- and have you explain 20 to him how when I say "Can you agree that he 21 probably would have been concerned about that," 22 Mr. Prince saying "I can't say with certainty 23 what he would have said" is an answer to that 24 question. It's not. It's not an answer to that 25 question. It's an answer to a different</p>	<p style="text-align: right;">Page 49</p> <p>1 MR. THOMPSON: See, this is another 2 example of you telling me how to conduct the 3 deposition. I don't need that. As -- as you 4 recognize, I've been at this a long time, too. 5 I know how to conduct a deposition. 6 MR. BRANTINGHAM: Uh-huh. 7 MR. THOMPSON: You may not like it, -- 8 MR. BRANTINGHAM: Uh-huh. 9 MR. THOMPSON: -- I get that. But I 10 don't need your instruction or your advice about 11 how to ask questions. If you have an objection, 12 make the objection. If you're going to instruct 13 him not to answer, instruct him not to answer, 14 but you better give the grounds for it. 15 BY MR. THOMPSON: 16 Q. So now I'm going ask my question again. 17 And if my question is not capable of being 18 answered with a yes or a no, please let me know. 19 Okay? 20 A. Okay. 21 Q. You understand? 22 A. Yes. 23 Q. Based on what you know about Noah 24 Leopold, can't you agree that he probably would 25 have been concerned if he had found out that</p>

<p style="text-align: right;">Page 50</p> <p>1 Mayo was planning to transplant a heart that had 2 come from a meth addict? 3 MR. BRANTINGHAM: Object to foundation. 4 Go ahead. 5 A. Based on what I know about him, he had 6 many questions. He probably -- 7 Yes, he would have been interested. 8 Q. "Concerned" was my question. 9 A. He would have had questions. 10 Q. Also wasn't -- 11 A. That is all I'm willing to say. 12 Q. You're not willing to say that he would 13 have been concerned, just that you think he 14 would have had questions. 15 MR. BRANTINGHAM: I think he just 16 answered that, but go ahead. 17 MR. THOMPSON: I'm making sure, because 18 that was -- 19 MR. BRANTINGHAM: Go ahead. 20 MR. THOMPSON: -- because again, he's 21 answering a different question than I'm asking. 22 I didn't ask if he'd be interested. I didn't 23 ask if he would have questions. I asked if he'd 24 be concerned. 25 MR. BRANTINGHAM: Go ahead. You can</p>	<p style="text-align: right;">Page 52</p> <p>1 He would have had questions. 2 Q. Okay. Do you think that he would have 3 been concerned? 4 MR. BRANTINGHAM: Same objection. 5 A. Maybe, yes. 6 Q. How about the fact that the donor had 7 died of an intracranial hemorrhage brought on by 8 a meth overdose, can we say that Noah probably 9 would have been concerned about that? 10 MR. BRANTINGHAM: Same objections. 11 A. I can't say what he would be concerned 12 about. Ultimately all that matters is the 13 testing that shows the function of the heart. 14 Q. That might be all that matters to the 15 doctors, but that's not necessarily all that 16 matters to the patient; right? 17 A. I can't speak for what would matter to 18 him. 19 Q. I'm talking about based on your 20 knowledge of Noah Leopold. You already said 21 that you think, yeah, maybe he would have been 22 concerned about the meth addict, yeah, maybe he 23 would have had questions about the cigarette 24 smoking. Can't you agree that he probably would 25 have been concerned if he had found out that</p>
<p style="text-align: right;">Page 51</p> <p>1 answer that question, Mr. Prince. 2 A. Yes, I think he may have been 3 concerned. 4 Q. Same question with respect to the donor 5 being a pack-and-a-half-a-day cigarette smoker. 6 What does the CCTC on your name badge 7 mean? 8 A. It is a credential of Certified 9 Clinical Transport Coordinator. 10 Q. What is your background with respect to 11 cardiac? 12 A. I worked in the cardiac intens -- 13 medical intensive care unit for three and a half 14 years prior to this role, cardiac surgery for 15 six years prior -- recovery unit prior to that. 16 Q. You and I can agree, it's pretty common 17 knowledge, that smoking cigarettes is really not 18 good for your heart; right? 19 A. Yes. 20 Q. Do you think that if Noah had found out 21 that the donor was a pack-and-a-half-a-day 22 smoker, that would have been something he would 23 have been interested in? 24 MR. BRANTINGHAM: Foundation. 25 A. He may --</p>	<p style="text-align: right;">Page 53</p> <p>1 this guy was a -- had died of an intracranial 2 hemorrhage brought on by a meth overdose? 3 A. I am upfront with patients when they 4 come through evaluation. The -- the reason why 5 patients come to be a donor is oftentimes tragic 6 circumstances. I will tell them upfront it's 7 not uncommon for things to happen as a result of 8 drug overdose, you know, by -- or it's just the 9 re -- one of the common reasons from my 10 understanding. So I don't know of any reason 11 why the background as to why somebody ended up 12 being in that position would alter someone's 13 willingness to take that organ. 14 Q. Then why do you talk to them about 15 hepatitis C? 16 A. Because it is something that I am told 17 needs consent in order to ask and they need to 18 learn about what's involved if we were to allow 19 them -- or if they were to allow us to look at 20 those offers. 21 Q. Your understanding is that the 22 transplant surgeons would be perfectly 23 comfortable transplanting a hepatitis-C-positive 24 heart in most patients; right? 25 MR. BRANTINGHAM: Foundation.</p>

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 A. I don't know what they're -- what 2 they're comfortable with. They want to look at 3 each individual offer and evaluate whether they 4 feel it's appropriate. You'd have to ask them 5 what they're comfortable with. 6 Q. The transplant surgeons were certainly 7 comfortable transplanting a hepatitis C donor in 8 Noah, right, because you put into UNet that, 9 yes, go ahead and send us offers for hepatitis C 10 hearts. 11 MR. BRANTINGHAM: Foundation. 12 A. I'm not aware of that change since I 13 didn't make it, so I can't speak to whether 14 they -- I mean you're telling me that they -- 15 they made that -- someone made that change, but 16 that was all after I stopped caring -- or he was 17 no longer under my care. 18 Q. Okay. The donor had meth and weed and 19 fentanyl and MDMA in his system on the tox 20 screen at the donor hospital. Do you think Noah 21 would have probably been concerned if he had 22 found that out? 23 MR. BRANTINGHAM: Foundation. 24 A. These are all the same questions. 25 Again, it's -- he would -- if -- if -- if he</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. BRANTINGHAM: What's the Bates 2 number, please? 3 MR. THOMPSON: 25198. 4 A. I -- 5 MR. BRANTINGHAM: Just object to 6 foundation. 7 THE WITNESS: Yeah. 8 MR. BRANTINGHAM: Go ahead. 9 A. I am not a surgeon. I -- I know that 10 it gets brought up frequently, but I don't know 11 what the -- what the specific concerns are from 12 a surgeon's standpoint. 13 Q. Do you remember having like an hour- 14 and-a-half phone conversation with Noah where he 15 had sent you a list of, I don't know, like 25 16 questions or something like that? 17 A. I do. 18 Q. Yeah. 19 Do you remember telling him 20 "Truthfully, if our team had their way they 21 would have said you needed a liver, but that's 22 not ultimately up to us?" 23 A. Could you read that again? 24 Q. Yeah. "Truthfully, if our team had 25 their way they would have said you needed a</p>
<p style="text-align: right;">Page 55</p> <p>1 was -- 2 He would have likely been concerned. 3 Q. What do you know about the discussions 4 regarding whether Noah was going to get a heart- 5 liver transplant? 6 A. I know that there -- it's -- it was 7 brought up at some point during the -- in 8 working towards getting him listed for heart, 9 that question was raised, and they -- the liver 10 team, to my recollection, evaluated and -- and 11 made their -- made their recommendations. 12 Q. The heart team wanted Noah to get a 13 liver; right? 14 A. They -- they raised questions whether 15 that was needed. It is common that they raise 16 that question and then we pursue a liver 17 transplant evaluation to determine whether 18 that's the recommendation. 19 Q. Dr. Spencer on August 17th at 8:00 20 o'clock in the morning sent an email to you, Dr. 21 Clavell, Dr. Boilson, and Dr. Rosenbaum talking 22 about the liver and saying "Heart surgeons get 23 uncomfortable operating on pts with liver 24 disease." Do you have any reason -- any idea 25 why he would say that?</p>	<p style="text-align: right;">Page 57</p> <p>1 liver, but that's not ultimately up to us." 2 A. Okay. 3 MR. BRANTINGHAM: The question is do 4 you remember saying that. 5 Q. Yeah. 6 A. I remember that -- not those exact 7 words, but I remember that being part of the 8 conversation. 9 Q. And if I'm understanding what you said 10 to him correctly, when you say "our team," you 11 mean the heart transplant folks; right? 12 A. That would be what I was referring to. 13 Q. So if the heart transplant team had 14 their way, they, being the liver transplant 15 team, would have said you needed a liver; right? 16 A. That is my understanding of my 17 statement. 18 Q. But when you say "ultimately that's not 19 up to us," what you meant there is no matter how 20 much the heart transplant people want you to get 21 a liver, if the liver transplant people aren't 22 willing to do the liver transplant, then you're 23 not going to get a liver transplant. 24 MR. BRANTINGHAM: Object to form. 25 A. They --</p>

15 (Pages 54 to 57)

<p style="text-align: right;">Page 58</p> <p>1 The liver team independently decides. 2 I -- we have no authority to list a liver. So 3 if -- if our team has questions, they -- they 4 are required to defer to the decision by the 5 liver team. 6 Q. Are you -- 7 Is part of your job involve -- 8 (Discussion off the record.) 9 One of the things that we got in this 10 discovery process was a series of what are 11 called call logs or thoracic offer reports. Are 12 you familiar with those? 13 A. I am not. 14 Q. Okay. I'm just going to show you one 15 of them to see if that looks meaningful to you, 16 and if it's not, that's just fine. 17 Have you ever seen something like this? 18 And this is Bates No. 25180 and 25182. 19 A. I personally have never seen any -- a 20 log like this. It's not part of my -- my 21 particular role. Yeah. So I couldn't speak to 22 as to what -- what that is exactly. 23 Q. The -- 24 Kind of the guideposts of your role, 25 when they first are sort of con -- when the</p>	<p style="text-align: right;">Page 60</p> <p>1 them and you want to kind of follow what's going 2 on. 3 A. I can see it once in awhile. I'll just 4 look and see who's gotten offers accepted just 5 to know if somebody's coming into the hospital. 6 But I don't -- I don't look into the details of 7 the offers. 8 Q. One of the things that Noah's family 9 had is a Mayo Clinic document that Noah got 10 probably ten years before -- 11 A. Okay. 12 Q. -- this all happened when he was first 13 consulting with the Mayo Clinic. 14 A. Uh-huh. 15 Q. And flip just a couple of pages here. 16 There's -- 17 On the second page there's some general 18 comments about statistics at Mayo Rochester, and 19 then there's -- on the next page there's kind of 20 a checklist. This to me looks like sort of just 21 an educational document that's -- 22 A. Uh-huh. 23 Q. -- provided. 24 Does Mayo still provide a document like 25 this to transplant patients?</p>
<p style="text-align: right;">Page 59</p> <p>1 patient is first consulting for a transplant, 2 you get involved with them then and you're their 3 liaison all the way through until they get the 4 offer? 5 A. Correct. In general that is the case, 6 until they're transplanted. You know, sometimes 7 we get offers that don't go through and then we 8 continue to follow up. I am an outpatient 9 coordinator, so in the circumstances where a 10 patient goes into the hospital, then that would 11 be one scenario where I am not the primary 12 contact person any more. 13 Q. So with respect to the offers that are 14 being made for organs, not only do you not have 15 decision-making input into that, you're out of 16 the loop on that entirely. 17 A. Not involved. I have access to 18 DonorNet and can see if an offer's been 19 accepted, but I am not part of the process of 20 reviewing offers or any part of that 21 decision-making process as to whether it's 22 accepted. 23 Q. Sometimes you'll go on DonorNet and 24 look to see if an offer for one of your patients 25 has been accepted just because you care about</p>	<p style="text-align: right;">Page 61</p> <p>1 A. Yes. So this is what we would call an 2 SRTR report. They come out every six months, 3 they are available on SRTR.org, and patients 4 coming back for an evaluation, we provide them 5 at -- this at the beginning of the evaluation. 6 So this is a little -- looks a little different 7 than what we have now. This form is -- and I 8 haven't looked at it closely, but it looks like 9 similar to something that we provide now but 10 it's been kind of reformatted. 11 Q. It's in better font and not as squished 12 maybe and things like that? 13 MR. BRANTINGHAM: I note that there's 14 no Bates number on that. I assume it's been 15 produced. I -- 16 MR. THOMPSON: Yes. 17 MR. BRANTINGHAM: -- think I've 18 probably seen it, but -- 19 MR. THOMPSON: Yeah. You have it. 20 MR. BRANTINGHAM: -- for the record, 21 can you identify, the best you can, just read 22 the title or something for the record, or if you 23 have the Bates number? 24 MR. THOMPSON: So it's -- we don't -- 25 We didn't put Bates numbers on these.</p>

16 (Pages 58 to 61)

<p style="text-align: right;">Page 62</p> <p>1 There's an exhibit though. Right?</p> <p>2 (Discussion off the record.)</p> <p>3 Yeah. She'll bring that up in a sec.</p> <p>4 I've got a question for you about this.</p> <p>5 BY MR. THOMPSON:</p> <p>6 Q. The current version of this document</p> <p>7 that you would be providing to patients would</p> <p>8 have the current SRTR statistics on it?</p> <p>9 A. It would have the --</p> <p>10 Yes, the most current one came out --</p> <p>11 well they come out in roughly January and July</p> <p>12 of every year and they are the one-year survival</p> <p>13 outcomes the -- for the program for a period of</p> <p>14 time in the past.</p> <p>15 Q. One of the things that this document</p> <p>16 says on the second page is "Survival following</p> <p>17 cardiac transplantation at Mayo Clinic</p> <p>18 Rochester/St. Mary's Hospital has been</p> <p>19 consistently superior to the national average</p> <p>20 and ranks among the highest in the country." Is</p> <p>21 that still a claim that Mayo Rochester is</p> <p>22 making?</p> <p>23 MR. BRANTINGHAM: Object to foundation.</p> <p>24 A. I have never seen --</p> <p>25 I do not recall ever reading that --</p>	<p style="text-align: right;">Page 64</p> <p>1 that survival following cardiac transplantation</p> <p>2 ranks among the highest in the country?</p> <p>3 MR. BRANTINGHAM: Foundation.</p> <p>4 A. I don't --</p> <p>5 I have not heard them say those words.</p> <p>6 I've -- I've --</p> <p>7 It's not in a document that I recall</p> <p>8 reading. I think that the -- generally what we</p> <p>9 refer to is our SRTR report. At least in my</p> <p>10 experience, that's what I refer to as to our</p> <p>11 performance.</p> <p>12 Q. Got it.</p> <p>13 A. As to -- as to comparing it to</p> <p>14 national, I don't -- I don't -- I don't recall</p> <p>15 hearing us making comparisons to other programs.</p> <p>16 Q. Like was being made at least as of</p> <p>17 these comments in 2011.</p> <p>18 A. Yeah. I've never seen this document</p> <p>19 before today, so I can't -- I -- that's not</p> <p>20 something that I recall seeing in our current</p> <p>21 form that we provide patients.</p> <p>22 Q. Is a document encompassing these SRTR</p> <p>23 statistics something that is supposed to be</p> <p>24 given to all heart-transplant patients as part</p> <p>25 of their education?</p>
<p style="text-align: right;">Page 63</p> <p>1 that -- that -- that claim in current published</p> <p>2 documents. In my recollection, I have seen many</p> <p>3 SRTR reports coming out, and based on comparing</p> <p>4 actual to national averages, in my recollection</p> <p>5 we have maintained at or above the national</p> <p>6 standards in the time I've been here.</p> <p>7 Q. The SRTR report group institutions into</p> <p>8 tiers with respect to a number of different</p> <p>9 statistics; right?</p> <p>10 A. I don't know what you mean by "tiers."</p> <p>11 I'm not familiar with that.</p> <p>12 MR. THOMPSON: Okay. For the record,</p> <p>13 this was produced as part of Exhibit 10, which</p> <p>14 was produced on August 1st. Let's go ahead --</p> <p>15 Let's take a short break.</p> <p>16 THE REPORTER: Okay. Off the record.</p> <p>17 (Recess taken from 10:13 a.m. to 10:15</p> <p>18 a.m.)</p> <p>19 THE VIDEOGRAPHER: We're on video.</p> <p>20 THE REPORTER: We're on the record.</p> <p>21 BY MR. THOMPSON:</p> <p>22 Q. Is it your understanding -- and I just</p> <p>23 want to make sure that I'm clear on this -- that</p> <p>24 Mayo continues -- Mayo Rochester continues to</p> <p>25 represent to their heart-transplant patients</p>	<p style="text-align: right;">Page 65</p> <p>1 A. It's a standard part at the onset of</p> <p>2 the evaluation.</p> <p>3 Q. When you say "onset of the evaluation,"</p> <p>4 for a guy like Noah, would that have meant well</p> <p>5 you got data from July of 2012, so now that</p> <p>6 we're admitting you in 2023, we're not going to</p> <p>7 give you an update info?</p> <p>8 A. So the whole point of me even arranging</p> <p>9 for him to have that video conference was to</p> <p>10 answer these questions. In fact, I had emailed</p> <p>11 him -- or I sent him a portal with attachments</p> <p>12 of the current form that would be the comparable</p> <p>13 form in an attachment to him preceding that.</p> <p>14 Q. Oh, okay.</p> <p>15 A. So he had --</p> <p>16 I had delivered an updated version of</p> <p>17 this for him to read. Because he was living in</p> <p>18 Florida, it wasn't easy for him to just come</p> <p>19 back, but it was evident he had questions. If I</p> <p>20 did not feel -- you referenced the 27-question</p> <p>21 message -- I didn't feel I could adequately</p> <p>22 answer his questions in typing because I knew</p> <p>23 that they would just lead to more questions, so</p> <p>24 I arranged for a virtual meeting to -- for the</p> <p>25 record, which is the only time I've ever done</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 that -- because I recognized he needed -- like</p> <p>2 that would be the best way of communicating and</p> <p>3 I wanted to update him on the content of this</p> <p>4 information.</p> <p>5 Q. Got it. So there would have been a</p> <p>6 document that you sent to Noah providing these</p> <p>7 statistics in advance of --</p> <p>8 A. No. That document did not include the</p> <p>9 actual statistics, because normally when we</p> <p>10 provide these it's in person at the onset of the</p> <p>11 evaluation, but the document does reference</p> <p>12 where they can find those statistics.</p> <p>13 Q. Got it.</p> <p>14 And is that document that you sent to</p> <p>15 Noah a standard Mayo Clinic document that</p> <p>16 somebody from Mayo would be able to find?</p> <p>17 A. Yes, it's on our forms database.</p> <p>18 MR. THOMPSON: Got it. Okay.</p> <p>19 Obviously we want a copy of that.</p> <p>20 MR. BRANTINGHAM: It's in the medical</p> <p>21 record. That's what he just said. It's sent to</p> <p>22 the patient. It's literally in the record.</p> <p>23 THE WITNESS: It's an attachment.</p> <p>24 MR. BRANTINGHAM: Yeah. It was</p> <p>25 portaled through like as an attachment.</p>	<p style="text-align: right;">Page 68</p> <p>1 CERTIFICATE</p> <p>2 I, Nicole A. Huber, hereby certify that</p> <p>3 I am qualified as a verbatim shorthand reporter;</p> <p>4 that I took in stenographic shorthand the</p> <p>5 testimony of NATHAN PRINCE at the time and place</p> <p>6 aforesaid; and that the foregoing transcript</p> <p>7 consisting of 67 pages is a true and correct,</p> <p>8 full and complete transcription of said</p> <p>9 shorthand notes, to the best of my ability.</p> <p>10 Dated at Baxter, Minnesota, this 23rd</p> <p>11 of August, 2024.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 NICOLE A. HUBER</p> <p>17 Notary Public</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 67</p> <p>1 MR. THOMPSON: In the record that was</p> <p>2 produced.</p> <p>3 MR. BRANTINGHAM: Yeah.</p> <p>4 MR. THOMPSON: Somewhere in those.</p> <p>5 Okay. Great.</p> <p>6 MR. BRANTINGHAM: Yeah. It's in there.</p> <p>7 MR. THOMPSON: All right. I don't have</p> <p>8 any other questions. Thank you.</p> <p>9 MR. BRANTINGHAM: I have no questions.</p> <p>10 We'll read and sign.</p> <p>11 THE REPORTER: Okay. Thank you. Off</p> <p>12 the record.</p> <p>13 (Deposition concluded at 10:19 a.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 69</p> <p>1 SIGNATURE PAGE</p> <p>2 I, NATHAN PRINCE, the deponent, hereby</p> <p>3 certify that I have read the foregoing</p> <p>4 transcript, consisting of 67 pages, and that</p> <p>5 said transcript is a true and correct, full and</p> <p>6 complete transcription of my deposition, except</p> <p>7 per the attached corrections, if any.</p> <p>8 PAGE LINE CHANGE/REASON FOR CHANGE</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 Date Signature of Witness</p> <p>20</p> <p>21 WITNESS MY HAND AND SEAL this _____</p> <p>22 day of _____, 2024.</p> <p>23</p> <p>24 (NAH) _____</p> <p>25</p>

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